

HONORABLE TIMOTHY W. DORE

HEARING DATE: FRIDAY, MAY 11 2018
HEARING TIME: 9:30 A.M.
LOCATION: SEATTLE, COURTROOM 8106
RESPONSE DATE: FRIDAY, MAY 4, 2018

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re

Robinson Tait, P.S.,

Debtor.

No. 18-11373-TWD (Ch. 7)

TRUSTEE'S MOTION FOR AUTHORITY
TO REJECT CONTRACT AND LEASES
UPON NOTICE

Nancy L. James, Chapter 7 trustee herein ("Trustee"), moves the Court pursuant to Bankruptcy Code § 365 for an order authorizing her to reject contracts and leases upon notice to non-debtor parties to contracts or leases. This motion is based on the files and records herein and on the accompanying Declaration of Nancy L. James.

A. BACKGROUND

This case was filed on April 2, 2018. As of the filing of this Motion, Schedules and Statement of Financial Affairs have not been filed. The Trustee has met with the Debtor's principle and has conducted as much due diligence as possible under the circumstances.

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CONTRACT AND LEASES UPON NOTICE – Page 1

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1 **B. CONTRACTS AND LEASES**

2 The Trustee has become aware of at least two non-residential real property leases of the
3 Robinson Tait, P.S. ("Debtor"). At this time, it is necessary that the Trustee retain access to real
4 property premises in order to collect records and administer personal property assets. As soon as she
5 determines that such access is no longer necessary, the Trustee will seek to reject such leases. The
6 Trustee is also determining the personal property leases to which the Debtor is a party.

7 **C. REJECTION**

8 The Trustee seeks authority to reject contracts and leases by providing written notice to the
9 non-Debtor parties to the contracts and leases, with rejection effective automatically as of delivery of
10 that written notice without need of further order of this Court. Consistent with the Trustee's efforts to
11 minimize administrative expenses, it is necessary that the Trustee have the flexibility to determine the
12 specific needs of the bankruptcy estate as her due diligence and work in this case proceeds. It is
13 therefore in the best interest of the bankruptcy estate and its creditors for the Trustee to have the
14 authority to reject contracts and leases upon notice to non-Debtor parties to contracts and leases.

15 Under 11 U.S.C. § 365(a), a trustee, "subject to the court's approval, may . . . reject any
16 executory contract or unexpired lease of the debtor." See also In re Robert L. Helms Constr. & Dev.
17 Co., Inc., 139 F.3d 702 (9th Cir. 1998). In making its determination, a bankruptcy court need engage
18 in only a cursory review of a [debtor-in-possession]'s decision to reject the contract. Specifically, a
19 bankruptcy court applies the business judgment rule to evaluate a trustee's rejection decision. Durkin
20 v. Benedor Corp. (In re G.I. Indus.), 204 F.3d 1276, 1282 (9th Cir. 2000) (citing NLRB v. Bildisco &
21 Bildisco, 465 U.S. 513, 523, 104 S. Ct. 1188, 79 L. Ed. 2d 482 (1984)); see also In re Chi-Feng
22 Huang, 23 B.R. 798, 800 (9th Cir. BAP 1982) (citing cases).

1 **CONCLUSION**

2 For the reasons stated herein, the Trustee respectfully requests an Order authorizing rejection
3 of contracts and leases upon notice as provided herein.

4 DATED this 18th day of April, 2018.

5 BUSH KORNFELD LLP

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7 By /s/ Aimee S. Willig
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10 Attorneys for Trustee
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